

AMENDED IN ASSEMBLY JULY 7, 2003
AMENDED IN ASSEMBLY JUNE 26, 2003
AMENDED IN SENATE MAY 20, 2003
AMENDED IN SENATE MAY 5, 2003
AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 584

Introduced by Senator Alarcon

February 20, 2003

An act to add Section 17531.3 to the Business and Professions Code, to add Sections 1726 and 1727 to the Civil Code, to add Section 395 to the Insurance Code, and to add Sections 2898 and 2898.1 to the Public Utilities Code, relating to advertising.

LEGISLATIVE COUNSEL'S DIGEST

SB 584, as amended, Alarcon. Advertising.

Existing law makes it unlawful for a business to engage in specified practices relating to the advertisement of its products or services. Under existing law, those practices may constitute acts of unfair competition that may be prosecuted in a civil action brought by, among others, the Attorney General.

This bill would require, *with specified exceptions*, beginning January 1, 2005, a person operating in specified businesses, including *financial institutions, automobile dealers*, insurance, and public utilities, who ~~advertises~~ *advertise rates, terms, and conditions for* a service or product in designated languages to provide, upon the request of a consumer, specified materials to him or her and to notify consumers of the right

to request these materials. ~~The bill would exempt from these requirements, as specified, a nonprofit organization and a person with annual gross revenues of less than \$10,000,000.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17531.3 is added to the Business and
2 Professions Code, to read:

3 17531.3. (a) A person who advertises a service or product in
4 Spanish, Chinese, Tagalog, Vietnamese, or Korean shall *provide,*
5 *orally or in writing, information on the rates, terms, and*
6 *conditions of the service or product that was advertised and shall*
7 *make available upon purchase by a consumer and at his or her*
8 *request, information on key terms rates, terms, and conditions for*
9 *providing the service or product that was advertised purchased.*

10 (b) A person who advertises a service or product in Spanish,
11 Chinese, Tagalog, Vietnamese, or Korean shall notify consumers
12 of their right to request the materials described in subdivision (a).

13 (c) A person with 25 or fewer employees that advertises from
14 a specific location shall comply with the requirements of this
15 section for a consumer residing within 50 miles of the person's
16 business location.

17 (d) A person may comply with the requirements of
18 subdivisions (a) and (b) by either of the following means:

19 (1) Providing the information described in subdivision (a)
20 within 14 days of its initial contact with the consumer.

21 (2) Providing the consumer with a telephone number to a call
22 center where the information described in subdivision (a) may be
23 obtained.

24 (e) Unless otherwise required by another provision of law, this
25 section does not require a person who advertises in a language
26 other than English to translate a contract or a tariff into those
27 languages.

28 (f) A person with 25 or fewer employees is not subject to this
29 section solely because another person with the same franchise,
30 brand, or trademark name has advertised a service or product in
31 Spanish, Chinese, Tagalog, Vietnamese, or Korean.

(g) The following definitions apply for the purposes of this section:

(1) “Advertise” means to disseminate or cause to be disseminated by television, radio, newspaper, written material, outbound telemarketing, or the Internet to market to, and attract, a customer.

(2) “Consumer” means a natural individual.

~~(3) “Key terms” means information necessary for a consumer to make an informed choice about the service or product, including, but not limited to, the following:~~

~~(A) Confirmation letters for services and products for utility services.~~

~~(B) Repair and customer services, including the process to make a billing inquiry concerning public utility services, and rates, terms, and conditions.~~

~~(C) Contracts for persons subject to Section 1632 of the Civil Code.~~

~~(4)~~

(3) “Person” has the same meaning as in Section 17506 and includes only a person who operates in the following businesses: ~~banking~~ *financial institution*, insurance, public utility, ~~credit union~~, money transferer, automobile dealer, or check cashing.

(h) This section does not apply to the following:

(1) A nonprofit organization that is exempt from the payment of income taxes under Section 501(c)(3) of the Internal Revenue Code.

(2) A person with annual gross revenues of less than ten million dollars (\$10,000,000) unless that person is an agent, subsidiary, franchisee, or affiliate of a person with annual gross revenues of ten million dollars (\$10,000,000) or more.

(i) *If the specific product or service is advertised in a specific region of the state, the requirements of this section shall apply only to persons in the relevant market area where the advertisement was placed in that region.*

(j) *The requirements of this section only apply when the request of the consumer to receive the material described in subdivision (a) is made at the time of the purchase of the policy and when the purchase of the service or product occurs within 30 business days of the date of the advertisement.*

1 (k) *Persons who meet the requirements under Sections 1726*
2 *and 1727 of the Civil Code, Section 395 of the Insurance Code, or*
3 *Sections 2898 and 2898.1 of the Public Utilities Code, shall be*
4 *deemed in compliance with the requirements of this section.*

5 (l) *This section shall become operative on January 1, 2005.*

6 SEC. 2. *Section 1726 is added to the Civil Code, to read:*

7 1726. (a) *An auto dealer that advertises, rates, terms, and*
8 *conditions for a specific service or product in Spanish, Chinese,*
9 *Tagalog, Vietnamese, or Korean shall, upon the request of a*
10 *consumer who has purchased in this state the advertised service or*
11 *product, provide information on the rates, terms, and conditions*
12 *included in the advertisement for the specific service or product*
13 *that was advertised by that auto dealer.*

14 (b) *An auto dealer who originates in this state an advertisement*
15 *of rates, terms and conditions Spanish, Chinese, Tagalog,*
16 *Vietnamese, or Korean shall notify consumers of their right to*
17 *request the materials described in subdivision (a).*

18 (c) *The following definitions apply for the purposes of this*
19 *section:*

20 (1) *“Advertise” means to disseminate or cause to be*
21 *disseminated by television, radio, newspaper, or Internet, as*
22 *defined in Section 17538 of the Business and Professions Code,*
23 *any paid message for purpose of selling a service or a product.*

24 (2) *“Consumer” means a natural individual.*

25 (d) *An auto dealer subject to this section may comply with the*
26 *requirements of subdivisions (a) and (b) by either of the following*
27 *means:*

28 (1) *Providing the information described in subdivision (a)*
29 *within 14 business days of the consumers initial request for the*
30 *information.*

31 (2) *Providing the consumer with a location or telephone*
32 *number where the information described in subdivision (a) may be*
33 *obtained.*

34 (e) *This section does not apply to a nonprofit organization that*
35 *is exempt from the payment of income taxes under Section*
36 *501(c)(3) of the Internal Revenue Code.*

37 (f) *If the specific service or product is advertised in a specific*
38 *region of the state, the requirements of this section shall apply only*
39 *to persons in the relevant market area where the advertisement was*
40 *placed in that region.*

1 (g) *The requirements of this section only apply when the request*
2 *of the consumer to receive the material described in subdivision (a)*
3 *is made at the time of the purchase of the service or product and*
4 *when the purchase of the service or product occurs within 30*
5 *business days of the date of the advertisement.*

6 (h) *Unless otherwise required by another provision of law, this*
7 *section does not require a person who advertises in a language*
8 *other than English to translate a contract into those languages.*

9 (i) *A person with 25 or fewer employees is not subject to this*
10 *section solely because another person with the same franchise,*
11 *brand, or trademark name has advertised a service or product in*
12 *Spanish, Chinese, Tagalog, Vietnamese, or Korean.*

13 (j) *This section shall become operative on January 1, 2005.*

14 SEC. 3. *Section 1727 is added to the Civil Code, to read:*

15 1727. (a) *A financial institution that advertises, rates, terms*
16 *and conditions for a specific service or product in Spanish,*
17 *Chinese, Tagalog, Vietnamese, or Korean shall, upon the request*
18 *of a consumer who has purchased in this state the advertised*
19 *service or product, provide information on the rates, terms, and*
20 *conditions included in the advertisement for the specific service or*
21 *product that was advertised by that financial institution.*

22 (b) *A financial institution who originates in this state an*
23 *advertisement of rates, terms and conditions Spanish, Chinese,*
24 *Tagalog, Vietnamese, or Korean shall notify consumers of their*
25 *right to request the materials described in subdivision (a).*

26 (c) *The following definitions apply for the purposes of this*
27 *section:*

28 (1) *“Advertise” means to disseminate or cause to be*
29 *disseminated by television, radio, newspaper, or Internet, as*
30 *defined in Section 17538 of the Business and Professions Code,*
31 *any paid message for purpose of selling a service or a product.*

32 (2) *“Consumer” means a natural individual.*

33 (d) *A financial institution subject to this section may comply*
34 *with the requirements of subdivisions (a) and (b) by either of the*
35 *following means:*

36 (1) *Providing the information described in subdivision (a)*
37 *within 14 business days of the consumers initial request for the*
38 *information.*

1 (2) *Providing the consumer with a location or telephone*
2 *number where the information described in subdivision (a) may be*
3 *obtained.*

4 (e) *This section does not apply to a nonprofit organization that*
5 *is exempt from the payment of income taxes under Section*
6 *501(c)(3) of the Internal Revenue Code.*

7 (f) *If the specific service or product is advertised in a specific*
8 *region of the state, the requirements of this section shall apply only*
9 *to persons in the relevant market area where the advertisement was*
10 *placed in that region.*

11 (g) *The requirements of this section only apply when the request*
12 *of the consumer to receive the material described in subdivision (a)*
13 *is made at the time of the purchase of the service or product and*
14 *when the purchase of the service or product occurs within 30*
15 *business days of the date of the advertisement.*

16 (h) *Unless otherwise required by another provision of law, this*
17 *section does not require a person who advertises in a language*
18 *other than English to translate a contract into those languages.*

19 (i) *A person with 25 or fewer employees is not subject to this*
20 *section solely because another person with the same franchise,*
21 *brand, or trademark name has advertised a service or product in*
22 *Spanish, Chinese, Tagalog, Vietnamese, or Korean.*

23 (j) *This section shall become operative on January 1, 2005.*

24 SEC. 4. *Section 395 is added to the Insurance Code, to read:*
25 *395. (a) An insurer who advertises rates, terms, and*
26 *conditions for a specific policy in Spanish, Chinese, Tagalog,*
27 *Vietnamese, or Korean shall, upon the request of a consumer who*
28 *has purchased the advertised policy, provide the following*
29 *material in that other language:*

30 (1) *Information on the rates, terms, and conditions for*
31 *providing the policy that was specifically advertised by that*
32 *insurer. Information provided by the insurer under this section is*
33 *governed by Section 394.*

34 (2) *In addition to any other form of compliance, an insurer may*
35 *comply with the requirement of paragraph (1) by providing*
36 *information that does all of the following:*

37 (A) *Summarizes the principal types and amounts of coverage*
38 *under the policy purchased by the consumer.*

39 (B) *Informs consumers on cancellation policies.*

1 (C) Informs consumers about payment, such as the date of
2 payment and the amount of payment.

3 (b) An insurer who originates in this state an advertisement of
4 rates, terms, and conditions for a specific policy in Spanish,
5 Chinese, Tagalog, Vietnamese, or Korean shall notify consumers
6 of their right to request the materials described in subdivision (a).
7 An insurer may also provide additional verbal or written
8 information in the advertised language, in order for the consumer
9 to make an informed choice about these or other services and
10 products.

11 (c) The following definitions apply for the purposes of this
12 section:

13 (1) "Advertise" means to disseminate or cause to be
14 disseminated by television, radio, Internet, as defined in Section
15 17538 of the Business and Professions Code, or newspaper, any
16 paid message for purpose of selling a specific policy to a consumer.

17 (2) "Consumer" means a natural individual.

18 (d) An insurer subject to this section may comply with the
19 requirements of subdivisions (a) and (b) by either of the following
20 means:

21 (1) Providing the information described in subdivision (a)
22 within 14 business days of the consumers initial request for the
23 information.

24 (2) Providing the consumer with a location or telephone
25 number where the information described in subdivision (a) may be
26 obtained.

27 (e) If the specific policy is advertised in a specific region of the
28 state, the requirements of this section shall apply only to persons
29 in the relevant market area where the advertisement was placed in
30 that region.

31 (f) The requirements of this section only apply when the request
32 of the consumer to receive the material described in subdivision (a)
33 is made at the time of the purchase of the policy and when the
34 purchase of the service or product occurs within 30 business days
35 of the date of the advertisement.

36 (g) Unless otherwise required by another provision of law, this
37 section does not require a person who advertises in a language
38 other than English to translate a policy into those languages.

39 (h) A person with 25 or fewer employees is not subject to this
40 section solely because another person with the same franchise,

1 *brand, or trademark name has advertised a service or product in*
2 *Spanish, Chinese, Tagalog, Vietnamese, or Korean.*

3 *(j) This section shall become operative on January 1, 2005.*

4 *SEC. 5. Section 2898 is added to the Public Utilities Code, to*
5 *read:*

6 *2898. (a) A provider of wireline telephone service that*
7 *advertises a specific telecommunications product or service in*
8 *Spanish, Chinese, Tagalog, Vietnamese, or Korean shall provide*
9 *in that language, orally or in writing, sufficient information for the*
10 *consumer to make an informed choice about the specific product*
11 *or service advertised.*

12 *(b) If a wireline telephone provider principally uses Spanish,*
13 *Chinese, Tagalog, Vietnamese, or Korean to complete an order for*
14 *telecommunications products or services, the provider shall*
15 *provide the consumer, after purchase of such products or services,*
16 *a written confirmation of the order in that language, which shall*
17 *include the toll-free telephone number or numbers to contact the*
18 *provider for repair and consumer services and to make billing*
19 *inquiries, in that language, within 14 days of the order.*

20 *(c) A wireline provider shall be presumed to have complied with*
21 *subdivisions (a) and (b) if the information referenced in*
22 *subdivision (a) is provided to the consumer in writing within 14*
23 *days of the initial contact with the consumer and the wireline*
24 *provider permits the consumer to rescind any agreement with the*
25 *wireline provider within seven days of receipt of the written*
26 *information.*

27 *(d) The following definitions apply for purposes of this section:*

28 *(1) "Wireline telephone service provider" means a telephone*
29 *corporation, as defined in Section 234, but shall not include*
30 *providers of "wireline services" that are subject to Section 2892.*

31 *(2) "Advertise" means disseminate or cause to be disseminated*
32 *to the public by television, radio, outbound telemarketing,*
33 *newspaper, or the Internet, as defined in Sections 17538 and 17531*
34 *of the Business and Professions Code, any message to market to*
35 *and attract a consumer.*

36 *(3) "Consumer" means a natural individual.*

37 *(d) This section does not require a wireline telephone service*
38 *provider to provide information to non-English-speaking*
39 *consumers that is not also provided to English-speaking*
40 *consumers under similar circumstances.*

1 (e) *This section shall become operative on January 1, 2005.*

2 SEC. 6. *Section 2898.1 is added to the Public Utilities Code,*
3 *to read:*

4 2898.1. (a) *A provider of commercial mobile radio service*
5 *that advertises a specific wireless product or service in Spanish,*
6 *Chinese, Tagalog, Vietnamese, or Korean shall provide in that*
7 *language, orally or in writing, sufficient information for the*
8 *consumer to make an informed choice about the specific product*
9 *or service advertised.*

10 (b) *If a commercial radio service provider principally uses*
11 *Spanish, Chinese, Tagalog, Vietnamese, or Korean to complete an*
12 *order for wireless products or services, the provider shall provide*
13 *the consumer, after purchase of such products or services, a written*
14 *confirmation in that language within 14 business days of the order.*

15 (c) *The following definitions apply for purposes of this section:*

16 (1) *“Commercial mobile radio service” mean a telephone*
17 *corporation subject to Section 2892.*

18 (2) *“Advertise” means disseminate or cause to be disseminated*
19 *to the public by television, radio, newspaper, or the Internet, as*
20 *defined in Sections 17538 and 17531 of the Business and*
21 *Professions Code, any message to market to and attract a*
22 *consumer.*

23 (3) *“Consumer” means a natural individual.*

24 (d) *This section does not require a commercial radio service*
25 *provider to provide information to non-English-speaking*
26 *consumers that is not also provided to English-speaking*
27 *consumers under similar circumstances.*

28 (e) *This section shall become operative on January 1, 2005.*